

APPEAL NO. 041537
FILED AUGUST 18, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on June 3, 2004. The hearing officer determined that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the 10th and 11th quarters. The appellant (carrier) appealed, asserting that the claimant's unemployment during the relevant qualifying periods was not a direct result of the impairment from his compensable injury, and further asserting that the claimant's job search was not made in good faith. The appeal file does not contain a response from the claimant.

DECISION

Affirmed.

Eligibility criteria for SIBs entitlement are set forth in Section 408.142 and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102). In dispute was whether the claimant's unemployment during the relevant time period was a direct result of the impairment from his compensable injury, and whether the claimant made a good faith effort to seek employment commensurate with his ability to work during that same time period. Rule 130.102(d)(5), relied on by the claimant in this case for SIBs entitlement, provides that the good faith requirement may be satisfied if the claimant "has provided sufficient documentation as described in subsection (e)." Rule 130.102(e) states that "an injured employee who has not returned to work and is able to return to work in any capacity shall look for employment commensurate with his or her ability to work every week of the qualifying period and document his or her job search efforts." The rule then lists information to be considered in determining whether the injured employee has made a good faith effort to obtain employment commensurate with his or her ability to work.

Whether the claimant satisfied the direct result and good faith requirements for SIBs entitlement was a factual question for the hearing officer to resolve. The factors emphasized by the carrier in its appeal are essentially the same as those argued at the hearing. The hearing officer noted that the claimant's testimony was credible. The hearing officer concluded that the claimant satisfied the direct result and good faith requirements for SIBs entitlement for the 10th and 11th quarters. Nothing in our review of the record indicates that the hearing officer's SIBs determinations are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **CONTINENTAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Daniel R. Barry
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Elaine M. Chaney
Appeals Judge